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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Federal-State Joint Board on)
Universal Service)
)

CC Docket 96-45
AAD/USB File No. 98-50
DA No. 98-608

**Reply Comments of the American Library Association in Support of New Jersey
Ratepayer Advocate Petition for Expedited Declaratory Ruling**

The American Library Association (ALA) requests that the Commission rule that the rates offered to schools and libraries in New Jersey under the "Access New Jersey" plan do not constitute special regulatory subsidies as defined by the FCC in its Fourth Order on Reconsideration.¹ Instead, ALA believes that these rates should be considered the lowest comparable price (LCP) for these services, and that the universal service discounts mandated by the Commission should be based from the Access New Jersey rates, not from the tariffed rates.

The American Library Association is the oldest and largest library association in the world. Its membership is made of up 57,000 librarians, library educators, information specialists, library trustees, and friends of libraries representing public, school, academic, state, and specialized libraries dedicated to the improvement of library and information services. A recent five- year initiative, ALA Goal 2000, aims to have ALA and librarianship be as closely associated with the public's right to a free and open information society - intellectual participation - as it is with the idea of intellectual freedom. ALA Goal 2000 also emphasizes the importance of equity on the

¹ See ¶141 of the Commission's Fourth Order on Reconsideration in CC Docket 96-45, FCC 97-420, released December 30, 1997 (hereinafter "Fourth Order").

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information superhighway and continues ALA's efforts to advocate for the highest quality of library and information services for all Americans.

ALA believes that the Ratepayer Advocate's petition should be accepted. The Commission explicitly referenced Bell Atlantic's program in NJ the Fourth Order, when it said:

We... note that the universal service discount mechanism is not funding the difference between generally available rates and special school rates, as suggested by Bell Atlantic, but is applied to the price at which the service provider agrees to provide the service to eligible schools and libraries.²

This statement would seem to explicitly deny Bell Atlantic the opportunity to apply the federal universal service discounts only to tariffed rates. Instead, discounts must be applied to the "price at which the service provider agrees to provide the service to eligible schools and libraries." In the case of Bell Atlantic - New Jersey (BA-NJ), this price is clearly the "Access New Jersey" price.

Since the publication of the Fourth Order, BA-NJ has unilaterally decreed that they will not permit schools and libraries receiving prices at the level agreed to under "Access New Jersey" to receive discounts from the universal service fund. We find this troubling for a number of reasons. First, BA-NJ's requirement of forcing schools and libraries to choose between the two programs will artificially inflate the demand on the universal service fund. Schools and libraries in New Jersey would be forced under BA-NJ's plan to apply their discounts to the tariffed rates, which are significantly higher than the prices BA-NJ has otherwise agreed to for schools and libraries. By applying the discounts to these higher prices, draw from the fund will be increased according, diminishing the availability of funding for other services (both for New Jersey schools

² Fourth Order, ¶141.

and libraries and for schools and libraries in other states). Recent estimates³ have shown that demand for funding will be heavy, and the Commission should not act in such a way as to artificially inflate that demand.

Second, BA-NJ will not incur additional costs by applying discounts to the "Access New Jersey" prices. BA-NJ will be reimbursed from the universal service fund for the difference between the "Access New Jersey" price and the discounted price an eligible library or school receives under the universal service program. Hence, there is no difference to BA-NJ between the price they would charge if there was no universal service program and the total amount of compensation that BA-NJ will receive when discounts are applied to the "Access New Jersey" rates. Allowing BA-NJ to apply discounts to the tariffed rate, on the other hand, represents an additional cash flow for the company at the expense of both New Jersey's schools and libraries (who will receive smaller discounts and pay higher prices) and schools and libraries across the nation (who will suffer from the greater draw on the fund required by NJ).

Finally, throughout this proceeding, the Commission has urged states to undertake their own universal service proceedings to supplement the federal process. In many states, the public utilities commissions (PUCs) have done so, enhancing their support for low income telephone users. States have also undertaken (either as part of a universal service proceeding or as part of an independent process) a number of steps to support the federal universal service fund. In California, the California Tele-Connect Fund provides 50% discounts on telecommunications services *on top of* the discounts provided by the federal program. The net effect in California is

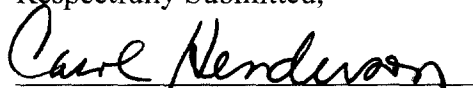
³See "Estimated Demand for E-Rate Discounts," available from the Schools and Libraries Corporation's website at <http://www.slcfund.org/announce.asp#EstERate>.

that discounts will range from 60% - 95% on eligible telecommunications services for applicants that take advantage of both programs. In Texas, the Texas Infrastructure Fund (TIF) is a program designed to accomplish many of the same goals as the universal service fund through targeted grants. These state initiatives should be coupled with federal discounts to ensure that schools and libraries get the maximum benefit possible at the least cost. This would most clearly further the goals of both the federal universal service program and Opportunity New Jersey.⁴

Conclusion

For the reasons stated above, the Commission should affirm the petition of the NJ Ratepayer Advocate, clarifying that the "Access New Jersey" rates are not special regulatory subsidies and instructing BA-NJ to stop denying discounts to schools and libraries trying to take advantage of both the state and federal programs. Allowing BA-NJ to take the discounts off of the tariffed rate would be poor public policy, costing both taxpayers and applicants to the federal program money they can ill-afford to spend.

Respectfully Submitted,



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⁴A recent study by ALA and the National Commission for Libraries and Information Science, "The 1997 National Survey of U.S. Public Libraries and the Internet," showed that the top three factors affecting public library involvement with the Internet are telecommunications fees, the availability of federal/state funds, and hardware costs. Additional information on the study is available online at <http://www.ala.org/oitp/activities.html>.